46TH CONGRESS, 2d Session. SENATE. REPORT No. 384.

IN THE SENATE OF THE UNITED STATES.

MARCH 18, 1880.—Ordered to be printed.

Mr. CALL, from the Committee on Patents, submitted the following

REPORT:

[To accompany bill S. 846.]

The Committee on Patents, to whom were referred the petition and accompanying papers of Ira Gill, have had the same under consideration, and report as follows:

The evidence submitted in support of the petition shows this to be a very unusual and exceptional case, and for that reason it has been deemed necessary to set forth the facts at considerable length.

Ira Gill was the inventor of a machine for forming hat-bodies that possesses unusual merit, and for which a patent was issued to him January 13, 1857, and in 1871 was extended for seven years, it being an original fourteen-year patent.

By means of his invention he has overcome a very important difficulty in this branch of manufacture, which was the distribution of the material of which the bodies of felt hats is composed, so as to give the proper weight, thickness, and strength to the part of the form that is to compose the rim or visor of the hat, and to reduce the weight of the crown of the hat.

This invention seems to be almost perfect in its operations. It has greatly reduced the cost of this article of almost universal use, and has enabled our manufacturers to control the home market, and to make large shipments to foreign countries.

This appears to be a case where the genius of the American inventor has added much to the real wealth of the country, while it has saved to the consumers, in the reduction of the cost of the manufacture, a great sum of money.

Mr. Gill is now eighty-one years of age, and has spent all the time from middle life to old age in inventing, perfecting, and introducing his hat-forming machinery into use, and in demonstrating the superiority of the product over any foreign manufacture.

In this work he has been embarrassed with many and serious difficulties and obstructions, for which he appears to be no further responsible than is frequently the case when an inventor of some machine that works a great revolution in a branch of industry thereby tempts the cupidity of powerful combinations to break him down with litigation in the courts.

It is proper to give a brief and succinct history of this invention and of Mr. Gill's efforts to introduce it into use, and of the causes that have led to its being almost profitless to him.

Ira Gill was a hatter by trade, and in 1823 commenced business on his own account. In 1853 he began his experiments with the idea of producing a machine that should do the work more rapidly than by hand and at the same time better than any existing machine. While experimenting with his first machine, he was interfered with by the owners of the Wells patent for forming hat-bodies, and was obliged to stop its use. After several years of effort he succeeded in completing his present invention, but was so poor that he was compelled to assign one-half of it to another party in 1857 in order to get the means with which to procure his patent. He set up a machine and run it at his place, at the same time trying to induce others to use the invention, but the threats of litigation by the owners of the Wells patent deterred them, and consequently he realized no more than he could earn by the use of his own machine, and his earnings were lessened by threats of the holders of the Wells patent to sue those who purchased goods made on his machine.

In 1857 a suit was brought by them against Gill in Massachusetts, and in 1863 against his assignee, Brown, in Connecticut. These suits were kept hanging over them for a long period, and, although finally decided in Gill's favor, they consumed his means and deterred others from using his invention, so that, as shown by the proofs, from 1854 to 1868, although he was aided by his sons, he did not realize enough to pay his expenses, and at the end of that time was left with an increased debt incurred in his efforts to introduce his patent.

About this time his invention began to attract public attention; some applications were made for licenses, and he took his two sons into partnership, with the idea of increasing the business. In the mean time the Wells patent had been reissued, and in 1868, while Gill was in New York City to purchase material for use on his machines, he was sued in the courts of that State for an alleged infringement of the Wells patent. That suit continued from 1868 until it was decided by the Supreme Court, in 1874, in Gill's favor. (See Gill *vs.* Wells, 21 Wallace, p. 1.)

Suits in equity were also commenced against Gill & Sons in Massachusetts shortly after the suit at law was commenced in New York, and the effect of these suits was, as before, to use up all their earnings and deter others from adopting or using the invention. As the hat business had concentrated almost entirely in New York City, the sons of Ira Gill, in the hope of moving advantageously to introduce the invention, in 1871 made arrangements to transfer their business to Orange, N. J., within a few miles of New York. There they built a factory and set up several of the machines and started them in 1872. Within two weeks from the time they commenced operating the machines the suit of 1868 in New York was decided adversely to Ira Gill, and thereupon the suit in equity against Gill & Sons in Massachusetts was pressed, and additional suits were instituted against the sons, and Yates, Wharton & Co., in New Jersey, and also against the Bethel Hat Company, in Connecticut, the only parties that Gill had been able to induce to take licenses and use his invention.

Various other suits were also brought against them; one by H. A. Burr, owner of the Wells patent, against Ira Gill, the inventor, in 1872, and another against his sons. In all, no less than eight suits have been brought against Gill and his three licensees, these suits extending over a period of twenty-one years, and five of them are still pending.

This continued and expensive litigation has prevented him from introducing his invention to any considerable extent until within the past

year or two, and hence he has been unable to realize from it an adequate remuneration.

It is a noticeable fact that in every instance where the matter has been decided by the courts the decision has been in favor of his patent; that all this litigation has been carried on, so far as he and his licensees are concerned, in the attempt to defend the use of his invention. In no instance has the patent been used to oppress others, he never having brought suit against any one, nor has the patent ever been reissued.

The great value of his invention is shown by the fact that there are made annually in the United States about ten million hats, and that the saving by the use of his invention in their production is about $300,000 per annum, while the whole amount realized by Gill has been but a trifle over $19,000, or but a little over $900 a year, as compensation for his time, labor, capital, and invention combined; and even this will in all probability be consumed in the litigation which is still pending, and on which the applicant and his sons are now under bonds to the amount of $60,000.

This application has been fully advertised to the trade and the public, and, instead of any opposition, the passage of the bill is asked for by fifty-one firms, embracing nearly every person engaged in the hat business; and among other reasons they say—

> That we believe said Gill's invention has been and is of great value and importance to the public and to the hat manufacturers of the United States. That said Gill has been prevented by costly litigation and threats of litigation from introducing and profiting by his invention, as he might otherwise have done, and as he justly deserved to do; and that he has labored long and diligently to make his invention remunerative, but is now comparatively a poor man. That we believe if his patent is extended, as prayed for, he will be able, without any detriment to the public interest, to obtain a just and reasonable remuneration for his invention.

It is impossible that this patent, if extended, can be used to create a monopoly of the business, because it will have to compete with all existing machines, the patents, on many of which have expired, and are therefore free to the public to use; and moreover, the bill preserves the rights of all parties who may be in lawful possession of machines embodying the invention at the time of the extension of the patent, in case it shall be extended.

Neither can it increase the cost of the article to the public, because the trade is already supplied with all or nearly all the machines required to supply the demand, and the owners of the Gill machines cannot increase the price charged for forming hat bodies, for to do so would at once drive the business into the hands of those owning the competing machines.

It should be understood that in this case the profit or remuneration is not derived from the sale of the patented machines, because their capacity is so great that a comparatively small number of machines will supply the entire demand, and hence the profit or remuneration is to be derived from the use of the machines instead of from their sale; and as the price charged for forming the hat bodies cannot be increased, because of the competing machines as above stated, it follows that whatever remuneration Gill can receive under the extension must arise from the superiority of his machine over all others, by which he and his licensees can do the work better and far more rapidly, and at the same time as cheaply as the others. It therefore follows that the public interests cannot be injuriously affected by the extension, in case it shall be granted, and it would seem but the simplest justice that he should have an opportunity to receive some remuneration for his invention, especially

when, as in this case, that remuneration is wholly dependent upon the ability of his invention to supply the public demand better and cheaper than all others.

It is shown by abundant testimony that the effect of introducing this invention at the expiration of the Wells patent, in 1874, and when for the first time this was free to be used, was to reduce the cost of forming hat bodies one-third, at which reduced rate it has kept them ever since, although the Gill patent had not then expired.

The bill does not extend the patent, but allows Mr. Gill to make application to the Commissioner of Patents in the usual manner where full notice is required, and all who desire to do so may oppose the application.

The committee are of the opinion that this case is exceptional in its character, and is one of real merit; that the laws that were designed to give to the inventor the just and equitable value of his invention by securing to him its exclusive use for a limited time have been made the means of preventing him from the enjoyment of these benefits. The laws have failed to protect him against the interference of a powerful monopoly until the life of his patent has been consumed while he has been engaged in defensive efforts to protect his right of property in his patent. If he could have had the peaceful enjoyment of his invention he would have accumulated a well-earned competency, and would have enjoyed the distinction of having made a highly valuable contribution to the wealth of the country, and of having conferred additional honors upon the inventors and mechanics who have so greatly contributed to its renown.

Your committee are of opinion that Mr. Gill has not been permitted to enjoy the full equitable advantage of his invention, and that he is not at fault in the matter, and they recommend the passage of the accompanying bill, as amended.

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